

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 2:24-cv-1467

UNITED STATES OF AMERICA and
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Plaintiffs,

v.

XTO ENERGY INC.,

Defendant.

NOTICE OF LODGING OF PROPOSED CONSENT DECREE

Plaintiffs, the United States of America and the Commonwealth of Pennsylvania, Department of Environmental Protection (“PADEP”), have filed a complaint against XTO Energy Inc. (“XTO”) seeking injunctive relief and civil penalties for violations of the Clean Air Act at 11 of XTO’s oil and natural gas production facilities in western Pennsylvania.

Plaintiffs hereby notify the Court that they have lodged with the Clerk of Court a proposed Consent Decree, attached as an exhibit hereto, that would resolve all claims in this action. Plaintiffs are **not** requesting any action by the Court at this time on the proposed Consent Decree. The United States is required by regulation to invite the public to comment on the proposed Consent Decree for a period of 30 days before seeking judicial approval. The public comment period will begin upon publication of a notice in the Federal Register, which we anticipate will occur shortly. At the end of the public comment period, Plaintiffs will file a

motion with the Court to advise the Court of any comments received and of the United States' position as to whether the proposed decree should be approved and entered by the Court.

Pursuant to 28 C.F.R. § 50.7, the United States may not seek the Court's approval of the proposed Consent Decree until the opportunity for public comment is satisfied. This regulatory requirement has been acknowledged by the parties to the proposed Decree as a condition of the settlement as reflected in Paragraph 151 of the proposed Decree. The United States therefore requests that the Court wait, before considering whether to approve and enter the proposed Consent Decree as an order of this Court, for a subsequent submission by Plaintiffs regarding any comments received during the public comment period and the United States' position regarding entry of the proposed decree.

Respectfully submitted,

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s Mark C. Elmer
MARK C. ELMER, Bar No. DC453066
Senior Counsel
U.S. Department of Justice
Environmental Enforcement Section
999 18th Street, South Terrace, Suite 370
Denver, Colorado 80202
Phone: (303) 844-1352
Fax: (303) 844-1350
Email: Mark.Elmer@usdoj.gov

ERIC G. OLSHAN
United States Attorney
Western District of Pennsylvania

PAUL SKIRTICH, Bar No. PA30440
Assistant United States Attorney
U.S. Post Office and Courthouse
700 Grant Street, Suite 4000
Pittsburgh, Pennsylvania 15219
Phone: (412) 894-7418
Fax: (412) 644-6995
Email: Paul.Skirtich@usdoj.gov

OF COUNSEL:

ALEX CHEN
Attorney Advisor
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

JENNIFER ABRAMSON
Senior Assistant Regional Counsel
Office of Regional Counsel, Air & Toxics Branch
U.S. Environmental Protection Agency

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

/s/ Carl D. Ballard
(Signed by Filing Attorney with consent)
Carl D. Ballard, Bar No. PA320830
Assistant Counsel
Northwest Regional Counsel
230 Chestnut Street
Meadville, PA 16335-3407
Phone: 814-332-6070
Fax: 814-332-6996
Email: caballard@pa.gov

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing *Notice of Lodging of Proposed Consent*

Decree to be served by email on October 24, 2024 on:

Gina Falaschi Buchman
Babst Calland Attorneys at Law
505 9th Street NW, Suite 602
Washington, DC 20004
gbuchman@babstcalland.com
Attorney for Defendant

/s/Jessica Warren
Jessica Warren